

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 20849 of 2004

Between:

A. Gangadhar, S/o. A. Asha Goud,
R/o. Mothe(V), Velpoor (M), Nizamabad District.

..... PETITIONER

AND

- 1 The Government of Andhra Pradesh, Rep. by its Principal Secretary, Secretariat, Hyderabad.
- 2 The Collector & District Magistrate, Nizamabad District.
- 3 The Superintendent, Central Prison, Chanchalguda, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of HABEAS CORPUS directing the respondents to produce the detenue Ankapur Asha Goud @ Narsa Goud S/o. Gnaga Goud R/o. Mothe Village, Velpur Mandal Nizamabad district now detained in Central Prison Chachalguda Hyderabad before this Hon'ble Court and may be released forthwith after declaring the order of detention dt. 16-08-2004 made in proceedings E2/716/2004 under Sec.3(1) and 3(2) R/w. Sec.2(1) and 2(b) of A.P. Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug-Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act 1986 (Act No.1 of 1986) by the Collector and district Magistrate Nizamabad as illegal and

Counsel for the Petitioner: MR.E.Phani Kumar

Counsel for the Respondent No.: THE ADVOCATE GENERAL

The Court at the admission stage made the following :

ORDER: (Per Sri BN.J)

This Habeas Corpus petition has been filed by the petitioner challenging the detention of his father A.Asha Goud, hereinafter referred to as the detenu, who has been detained by the Collector and District Magistrate, Nizamabad District under Section 3(1) & (2) read with Section 2(a) & (b) of the Andhra Pradesh Prevention of Dangerous Activities of Boot Leggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986.

Counter has been filed and we have heard the learned counsel for the parties.

Various grounds have been taken to attack the order of detention and by an order of this Court dated 29.11.2004, the matter had been referred to a Full Bench along with some other matters. When the matter came up before the Full Bench, learned counsel for the petitioner submitted that he is not going to attack the detention order on the ground, which was the subject matter of the reference before the Full Bench; rather he would attack the order of detention on various other grounds. Therefore, this writ petition was directed to be deleted from the batch and accordingly it was listed before us.

One of the grounds urged by the counsel for the petitioner is that the detaining authority did not inform the detenu that he had a right to approach the detaining authority by way of a representation. The grounds of detention as well as the order of detention informed the detenu that he had a right to make a representation against the order of detention to the Chief Secretary, Government of A.P. This Court has consistently held that when the detenu is not informed of his right to make a representation to the detaining authority against the order of detention, that would amount to infraction of rights guaranteed under Article 22 (5) of the Constitution of India. Therefore, on this ground alone, we quash the impugned order of detention and direct that the detenu be released forthwith, if not needed in any other case.

The writ petition is accordingly allowed.

(BILAL NAZKI,J)

Dated: 28..12..2004

(Dr.G.YETHIRAJULU,J)

To

1 The Principal Secretary ,

Government of Andhra Pradesh, Secretariat, Hyderabad.

2 The Collector & District Magistrate, Nizamabad District.

3 The Superintendent, Central Prison, Chanchalguda, H

Hyderabad.

4 2 ccs to the Advocate General, High Court of A.P.

Hyderabad.(OUT)

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